SECTION 2: CAIR NO_x TRADING PROGRAMS RULE

2.1 Background

Upon finalizing CAIR, EPA anticipated that states would reduce emissions of SO_2 and NO_x largely by reducing emissions from the power generation sector. Annual and Ozone Season NO_x allocations will be on a unit by unit basis using the Louisiana budget provided as per the CAIR definition. The Annual and Ozone Season allowances shall be calculated by LDEQ using the method as proposed in AQ285 and the Louisiana Annual and Ozone Season budgets as defined in CAIR. The allowances will be submitted to EPA; EPA in turn will manage the allowances including transfers, purchases, and withdrawal for compliance each control period.

Further, LDEQ will be responsible for issuing the applicable CAIR permits to each facility. Only those facilities (facilities with one or more units subject to CAIR) with a Title V permit will need to apply for a CAIR permit. The CAIR permit will be separable from the Title V permit, much like the Acid Rain permits. This permit is necessary in order to participate in the CAIR programs (Annual NO_x, Ozone Season NO_x, and Annual SO_2).

In order to implement CAIR, LDEQ has worked to identify and contact all subject facilities. A stakeholder group was formed to garner input from industry, government, and environmental entities. LDEQ engaged in discussions with the LPSC regarding the impact of CAIR on the Louisiana rate payer.

As part of its effort to identify all the EGUs in the state, LDEQ reviewed data from the its databases (TEMPO and Emission Inventory), the National Electric Energy System Database (NEEDS 2000, 2003, and 2004), the Department of Energy and the Acid Rain Program. The results of the review were compared to a list of potentially subject units and facilities provided by the LSUCES. The final list was published in the Louisiana Register on January 20, 2006 (LR 32:179 January 20, 2006) and the potentially subject facilities were asked to verify the status of the units. The published list was revised based on the responses received and the facilities remaining on the list that did not respond were contacted by LDEQ to confirm the status of potentially subject units.

2.2 Rule Provisions

CAIR establishes a cap-and-trade system based on EPA's Acid Rain Program and NO_x SIP Call Program for SO_2 and NO_x emissions from EGUs. An Annual NO_x budget and an Ozone Season NO_x budget were created for each CAIR state. The NO_x "allowances" in each state's budget are to be allocated to subject facilities within each state. Sections 51.123(p) and 51.123(ee) of the federal CAIR allows each state some flexibility in the implementation of certain rule provisions related to methods for allocating NO_x allowances. Rule AQ285, CAIR NO_x Trading Programs, defines the state's method under the CAIR Annual and Ozone Season Trading Programs for allocating NO_x allowances to EGUs subject to CAIR. The provisions in the rule located

at LAC 33:III.506 would be used in lieu of 40 CFR 97, Subpart EE – CAIR NO_x Allowance Allocations (§97.141 and §97.142) and Subpart EEEE – CAIR NO_x Ozone Season Allowance Allocations (§97.341 and §97.342).

In AQ285, CAIR facilities in Louisiana are defined as either utility units (LPSC regulated and municipals) or non-utility units (independent power producers, and co-generation facilities). The allocation of NO_x allowances is based on whether a facility is a utility unit or a non-utility unit. Should the designation of a facility as utility or non-utility change, the method for allocating allowances for the facility/unit will change for the next control period in which allowances are allocated. For both utility and non-utility units, the initial Annual and Ozone Season NO_x allocations for control periods 2009, 2010, and 2011 will be made using data from 2002, 2003, and 2004. For control period 2012 and thereafter, the allowance calculation will use the last three (3) years of actual data prior to the control period for which NOx allocations are submitted to the Administrator [Example - allocations for control period 2012 will use actual emissions from 2007, 2006, and 2005]. If three (3) years of data is not available for a unit, the data available will be used and averaged. The rule does not specify that there must be data for an entire year. Therefore, a partial year of data, due to maintenance or low demand, is sufficient to count as a year of data. The primary source of data will be the LDEQ annual emission inventory, but the EPA Acid Rain database will be used if data is missing in the Louisiana LDEQ emission inventory.

For non-utility units, Annual and Ozone Season NO_x allowances will be based on an average of the unit's actual annual, or ozone season, emissions for three (3) years prior to the control period for which NO_x allocations are being made. The Annual NO_x allowances for the units will be totaled and subtracted from the Louisiana Annual NO_x budget the control period for which allocations are being made. The ozone season allowances for non-utility units are also totaled and subtracted from the Louisiana Ozone Season NO_x budget.

The remaining Louisiana Annual NO_x and Ozone Season NO_x budgets are allocated to the utility units based on an average of the actual annual, or ozone season, heat input of the units as a ratio to the total average annual actual heat input for the annual, or ozone season.

Provisions for LPSC certified and municipally approved new units are included to provide NO_x allocations until the units has been in operation for 3 years.

For the Louisiana calculation methodology for Annual and Ozone Season NO_x allowances for utility and non-utility units, see Appendix C.